State of New Hampshire Insurance Department
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Paula T. Rogers
Commissioner

BULLETIN

Docket No.: INS NO. 02-004-AB

TO: All Licensed Health Insurance Companies, Health Maintenance Organizations and Fraternal Benefit Societies

FROM: Paula T. Rogers
Insurance Commissioner

DATE: January 24, 2002

RE: **Small Group Health Insurance Underwriting**

BACKGROUND

When RSA 420-G was adopted several years ago, it was intended to promote competition among health insurance carriers based on their ability to handle claims and their ability to manage health care services, not their ability to select risks. As such, the chapter prohibits or constrains underwriting practices that preclude higher risk applicants from obtaining coverage.

Carriers underwrite groups in an effort to minimize antiselection. In group coverage the risk of adverse selection is inversely related to the proportion of eligible employees electing coverage through the carrier's offered plan. As the number of eligible employees electing coverage through the plan increases, the carrier's antiselection risk decreases.

The Department is concerned that group underwriting methods and techniques presently being used by certain carriers undermine the intent of RSA 420-G. The purpose of this bulletin is to clarify the Department's interpretation of the limits that RSA 420-G places on group underwriting methods, and to clarify which underwriting methods are permitted by RSA 420-G.

Permitted Group Underwriting Methods

RSA 420-G:9 sets forth a participation requirement carriers may use to protect themselves from excessive risk resulting from adverse selection. This statute allows carriers to deny coverage to groups that fail to enroll a minimum number of eligible employees.

Prohibited Group Underwriting Methods

All other group underwriting methods are prohibited.

Examples of Prohibited Group Underwriting Methods

Often, employers will give their employees a choice of various health plans. Many carriers offer several health plan alternatives. The Department has learned that, in certain situations, some carriers have refused to make their indemnity product available when that indemnity product is offered as an option alongside a competing carrier's managed care product. In these cases, the carriers have required either that the indemnity product be offered as the only health plan choice or that one of the carrier's managed care plan be offered as one of the employer's health plan alternatives. These are prohibited practices under RSA 420-G.

The carrier's protection against excessive risk from adverse selection derives from the participation rule set forth by statute. The participation rule allows a carrier to deny its indemnity coverage if a minimum number of the employer's eligible employees do not elect that particular coverage option.

Many employers require employees to contribute towards the cost of their health insurance coverage. Some employers even require employees, via payroll deductions, to pay the full cost of their health insurance coverage. The Department has learned that some carriers have refused to offer coverage unless the employer contributes a minimum portion of the health insurance plan's cost. Typically, this minimum portion is expressed as a percentage of the plan's costs, e.g. 50%. This is a prohibited practiced under RSA 420-G.

A carrier may not base a coverage denial on the proportion of the plan's cost funded through employee deductions, nor may a carrier set a minimum employer contribution level. Again, the carrier's protection against antiselection is via the participation rule set forth by statute.

Summary

RSA 420-G promotes competition based on the carrier's ability to administer and service health insurance policyholders and discourages carriers from competing based on the carrier's ability to select the best risks. Carriers may protect themselves from antiselection by enforcing the participation rule set forth in RSA 420-G.